

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JOSEPH GIAMANCO, individually and on
behalf of all others similarly situated,

Plaintiff,

V.

APPLE INC.,

Defendant.

Case No.: 1:24-CV-02694

Judge: Hon. Sara L. Ellis

**UNCONTESTED MOTION TO SUSPEND THE DEADLINE FOR DEFENDANT TO
RESPOND TO COMPLAINT**

Pursuant to Local Rule 5-3(a) and this Court’s procedural rules, Defendant Apple Inc. (“Apple”) by and through its counsel, hereby files this Uncontested Motion to Suspend the Deadline for Defendant to Respond to Complaint (“Motion”). Plaintiff Joseph Giamanco does not contest the motion. Defendant Apple hereby states as follows:

WHEREAS, Plaintiff filed a Class Action Complaint (the “Complaint”) on April 3, 2024.
ECF No. 1;

WHEREAS, Plaintiff sent Apple a request to waive the service of summons on April 5, 2024, and Plaintiff filed waiver of the service of summons on April 8, 2024;

WHEREAS, on March 30, 2024, plaintiff in the matter of *Chiuchiarelli v. Apple Inc.*, Case No. 3:24-cv-01895 (N.D. Cal.) (“Chiuchiarelli”) filed a motion pursuant to 28 U.S.C. § 1407 before the U.S. Judicial Panel on Multidistrict Litigation (“JPML”) to transfer several cases in which Apple is named as the Defendant to the U.S. District Court for the Northern District of

California for consolidated pretrial proceedings (“*Chiuchiarelli* Motion to Transfer”), *see In Re: Apple Inc. Smartphone Antitrust Litigation* (“*In re: Apple*”), MDL No. 3113, Dkt. 1, 6;

WHEREAS, on April 8, 2024, counsel for *Chiuchiarelli* filed a Notice of Potential Tag-Along Actions with the JPML identifying this case as a potentially related case;

WHEREAS, Apple’s deadline to answer, move to dismiss, or otherwise respond to the Complaint in this action is currently June 4, 2024;

WHEREAS, in light of the *Chiuchiarelli* Motion to Transfer, the outcome of which could affect the procedural posture of this action, party and judicial efficiency would be best served by suspending the deadline for Apple to answer, move to dismiss, or otherwise respond to the Complaint pending a decision on the *Chiuchiarelli* Motion to Transfer;

WHEREAS, Plaintiff and Apple have agreed to meet and confer and file a status report with the Court related to a schedule for the case within fourteen (14) days after the issuance of a decision by the JPML on the *Chiuchiarelli* Motion to Transfer;

WHEREAS, the parties have not requested or obtained any previous extension of deadlines set in this matter;

WHEREAS, in making this stipulation and moving to suspend deadlines, Apple does not waive, in this or any other action, any (i) defenses or arguments for dismissal that may be available under Fed. R. Civ. P. 12; (ii) affirmative defenses under Fed. R. Civ. P. 8, including defenses based on class action waivers; (iii) other statutory or common law defenses that may be available; or (iv) right to seek or oppose any reassignment, transfer, or consolidated alternatives, including to seek arbitration. Apple expressly reserves its rights to raise any such defenses (or any other defense) in response to either the Complaint or any original, amended, or consolidated complaint that may be filed in this or any other action.

THEREFORE, Apple moves to suspend the deadline for Defendant to answer, move to dismiss, or otherwise respond to the Complaint pending a decision on the *Chiuchiarelli* Motion to Transfer in MDL No. 3113.

Dated: May 24, 2024

Respectfully submitted,

By: /s/ James R. P. Hileman

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